

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JOSHUA P. BRAITHWAITE,

Petitioner,

v.

Case No. 17-cv-1372-pp

WARDEN SCOTT ECKSTEIN,

Respondent.

**ORDER DENYING AS MOOT PETITIONER'S MOTION FOR STAY AND
ABEYANCE (DKT. NO. 10) AND DIRECTING CLERK'S OFFICE TO CLOSE
THE CASE FOR ADMINISTRATIVE PURPOSES PENDING THE EXHAUSTION
OF STATE COURT REMEDIES**

The petitioner filed a petition for writ of *habeas corpus* on October 10, 2017, dkt. no. 1, along with a motion for stay and abeyance, dkt. no. 4. The petitioner filed a second motion for stay and abeyance on October 13, 2017. Dkt. No. 6. On October 30, 2017, the court granted petitioner's motions for stay and abeyance, and stayed the case until the petitioner had exhausted his state court remedies. Dkt. No. 8. The court also asked the petitioner to file a status report every ninety days, updating the court regarding his progress in state court. Id.

On December 29, 2017, the petitioner filed a third motion for stay and abeyance. Dkt. No. 10. A month later, he filed a status report indicating that he had sent a letter to the court of appeals, and that he intended to file a Knight

petition. Dkt. No. 11. He explained that it had been difficult for him to file the status report in ninety days. Id.

Given the current circumstances, the court is not going to require the petitioner to continue filing updates, especially because he has difficulty doing so. Because the petitioner is in the early stages of the Knight petition process, the court is going to administratively close the petitioner's case (with the parties retaining all the rights they would have had had the case not been closed for administrative purposes), until the petitioner notifies the court that his state court proceedings have finished. As soon as the state court litigation is complete, the petitioner may file a one-sentence motion, asking the court to reopen his case and to lift the stay. The court will grant that motion immediately, and the filing date for the petition will remain October 10, 2017. In other words, the administrative closure and subsequent reopening will not change the fact that, for statute of limitation purposes, the petitioner filed his petition on October 10, 2017.

The court **DENIES AS MOOT** the petitioner's motion for stay and abeyance. Dkt. No. 10. The court **ORDERS** the clerk of court to **CLOSE** this case for administrative purposes. The petitioner shall file a motion to reopen the case and lift the stay within **thirty days** after conclusion of the state court

proceedings. The petitioner need not file any further status reports with this court.

Dated in Milwaukee, Wisconsin this 26th day of April, 2018.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge